

# TUVALU 2021 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Tuvalu is a constitutional parliamentary democracy. Observers judged parliamentary elections held in 2019 were free and fair, with seven new members elected to the 16-member parliament. There are no formal political parties. Following the elections, parliament selected Kausea Natano as prime minister.

The national police service, under the Ministry of Justice, Communications, and Foreign Affairs, maintains internal security. The country has no military force. Civilian authorities maintained effective control over the security forces. Members of the security forces were not reported to have committed abuses.

Significant human rights issues included credible reports of: the existence of laws criminalizing consensual same-sex sexual activities between men, although the law was not enforced.

The government took steps to investigate human rights abuses and corruption. Impunity was not a problem.

## Section 1. Respect for the Integrity of the Person

### a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings.

### b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or

## **Punishment**

The constitution prohibits such practices, and there were no reports that government officials employed them.

The law prohibits traditional assemblies of local hereditary elders from imposing physical punishment.

Impunity was not a significant problem in the security forces.

## **Prison and Detention Center Conditions**

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

**Physical Conditions:** There were no major concerns in prisons and detention centers regarding physical conditions or inmate abuse.

**Administration:** The ombudsperson can act on behalf of prisoners and detainees and respond to prisoner complaints. The government did not investigate or monitor prison conditions and did not receive any complaints or allegations of inhuman conditions.

**Independent Monitoring:** The government permits visits by independent human rights observers, but there were no reported visits during the year.

## **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

### **Arrest Procedures and Treatment of Detainees**

The law permits arrests without a warrant if a police officer witnesses the commission of an unlawful act or has “reasonable suspicion” an offense is about to be committed. Police estimated the majority of arrests were without warrants. Police may hold a person arrested without a warrant for a maximum of 24 hours without a hearing before a magistrate. When a court issues an arrest warrant, the

warrant states the maximum permissible detention time before the court must hold a hearing, which is normally one to two weeks. Authorities did not hold suspects incommunicado or under house arrest.

Authorities generally informed arrested persons promptly of the charges against them, although bureaucratic delays sometimes occurred because persons charged with serious offenses must await trial at a semiannual session of the High Court. There was a functioning system of bail. The people's lawyer (similar to a public defender) was available free of charge to arrested persons and for other legal advice. Persons living on the outer islands did not have rapid access to legal services because the people's lawyer, based on the main island of Funafuti where the capital is located, traveled infrequently to the outer islands. The country had only one attorney in private practice.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

#### **Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. The law provides for a presumption of innocence. Judges conduct trials and render verdicts. Defendants have the right to be promptly informed in detail of the charges against them; to free interpretation as necessary from the moment charged through all appeals; to consult with an attorney in a timely manner; to have access to the people's lawyer; and to adequate time and resources to prepare a defense. They also have the right to be present at their trial, confront witnesses, present witnesses and evidence, and appeal any convictions. Defendants may not be compelled to testify or confess guilt and have a right to appeal a judge's decision. The law extends these rights to all defendants.

#### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

Individuals and organizations may seek civil remedies for human rights violations through domestic courts.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The law provides for freedom of expression, including for members of the press and other media, and the government generally respected this right. An effective judiciary and a functioning democratic political system combined to promote freedom of expression, including for members of the media.

**Freedom of Expression for Members of the Press and Other Media, Including Online Media:** Although there were no government restrictions, the government's Media Department controlled the country's sole radio and television station. There were no local private, independent media to express a variety of views.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

## **b. Freedoms of Peaceful Assembly and Association**

Although the law provides for the freedoms of peaceful assembly and association, the government allows certain restrictions on the freedom of peaceful assembly.

### **Freedom of Peaceful Assembly**

The law provides for freedom of peaceful assembly; however, the government allowed island chiefs to place restrictions on assembly for public worship.

## **c. Freedom of Religion**

See the Department of State's International Religious Freedom Report at <https://www.state.gov/religiousfreedomreport/>.

## **d. Freedom of Movement and the Right to Leave the Country**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

## **e. Status and Treatment of Internally Displaced Persons**

Not applicable.

## **f. Protection of Refugees**

**Access to Asylum:** The law provides for the granting of asylum or refugee status, but the government has not established a system for providing protection to refugees. There were no reported applications for asylum or refugee status during the year.

## **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Recent Elections:** The parliamentary election held in 2019 was generally

considered free and fair, with seven new members elected to the 16-member parliament. Following the election, parliament selected Kausea Natano as prime minister.

**Political Parties and Political Participation:** There were no formal political parties. Parliament tended to divide itself between an ad hoc faction with at least the minimum votes required to form a government and an informal opposition faction.

**Participation of Women and Members of Minority Groups:** No law limits participation of women, members of minority groups, persons with disabilities, or members of the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) community in the political process, and they did participate. Participation by women in politics was low, hindered largely by their subordinate societal position and by traditional perceptions of women's role in society. Several women served in senior government positions, however, including the attorney general. The 16-member parliament included one woman. There were no members of minority groups in parliament or the cabinet.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for some forms of corruption by officials such as theft, and the government generally implemented the law effectively. There were no reports of government corruption during the year.

The Office of the Attorney General, police force, ombudsperson, auditor general, Public Service Commission, and the Central Procurement Unit were responsible for the government's anticorruption efforts.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

No nongovernmental organizations (NGOs) focused solely on human rights, although no known barriers exist to the establishment of human rights groups.

Some NGOs that included human rights in their agenda, such as the Tuvalu National Council of Women, operated under the auspices of the Tuvalu Association of NGOs, composed primarily of faith-based organizations. Domestic organizations involved in human rights issues generally operated without government restriction, investigating and publishing their findings on human rights cases. Nonetheless, the lack of local print and electronic media limited opportunities to publicize such information locally. Government officials were somewhat cooperative and responsive to local organizations' views.

**Government Human Rights Bodies:** The Office of the Ombudsman includes a national human rights institution to promote and protect human rights in the country.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** Rape of women is punishable by a minimum sentence of five years' imprisonment. A perpetrator of "indecent assault" on a man is "liable to imprisonment for seven years." The law recognizes spousal rape. The law recognizes domestic violence as a criminal offense. Under the law domestic violence offenses are punishable by a maximum five years' imprisonment, a fine, or both. Under the assault provisions of the penal code, the maximum penalty for common assault is six months' imprisonment, and for assault with actual bodily harm, it is five years.

Police have a Domestic Violence Unit, employed a "no-drop" evidence-based prosecution policy in cases of violence against women, and operated a 24-hour emergency telephone line for victims of domestic violence. The law gives police explicit powers to intervene in violent circumstances, including the power to enter private property and order a person who has committed an act of domestic violence to vacate property, regardless of whether that individual has rights to that property, if another person at risk of further violence occupies it. The Women's Crisis Center provided counseling services, but there were no shelters for abused women. Cases of rape and domestic violence often went unreported due to lack of awareness of women's rights and traditional and cultural pressures on victims,

although the Attorney General's Office and police conducted nationwide awareness campaigns.

**Sexual Harassment:** The law does not specifically prohibit sexual harassment but prohibits indecent behavior, including lewd touching. The *Tuvalu Study on People with Disability* report, released by the government in 2018, found that women with disabilities were subject to abuse and harassment, including sexual abuse.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities, although NGOs continued to raise awareness to assist persons with disabilities and provide them with greater opportunity to make informed decisions on reproductive and health issues.

There were no legal or social barriers to accessing contraception, but some religious beliefs and cultural barriers, including women's reluctance to utilize modern contraceptives and the stigma attached to certain health issues, limited the use of contraceptives. Limited reproductive health services were available in the outer islands and skilled health attendance during childbirth was available only at the main hospital in the capital, Funafuti. The government provides access to health care, including emergency contraception, for victims of sexual violence. The government also provides financial support to NGOs that assist victims of sexual violence.

**Discrimination:** Aspects of the law contribute to an unequal status for women, for example in land inheritance and child custody rights. No law prevents employment discrimination based on gender or requires equal pay for equal work, and such discrimination occurred. Nonetheless, women increasingly held positions in the health and education sectors and headed several NGOs.

## **Systemic Racial or Ethnic Violence and Discrimination**

There are no laws to protect members of racial or ethnic minorities or groups from violence and discrimination.

The country is relatively homogeneous, with a large Tuvaluan majority and small Tuvaluan/I-Kiribati and other minority groups. There were no reports of discrimination or violence against members of minority groups.

## Children

**Birth Registration:** A child derives citizenship at birth, whether born in the country or abroad, if either parent is a citizen. The law requires registration of births within 10 days, a practice generally observed.

**Education:** Education is compulsory until age 15. No law specifically mandates free basic education, but government policy generally provided free basic education for all.

**Child Abuse:** The government does not collect or publish data on child abuse, and there were no reports of child abuse during the year. Anecdotal evidence, however, indicated child abuse occurred. The law prohibits corporal punishment.

**Child, Early, and Forced Marriage:** The legal minimum age of marriage for both girls and boys is 18.

**Sexual Exploitation of Children:** The age of consent for sexual relations is 15. Sexual relations with a girl younger than 13 carries a maximum punishment of life imprisonment. Sexual relations with a girl older than 12 but younger than 15 carries a maximum penalty of five years' imprisonment; however, no law prohibits the use, procurement, or offering of boys from age 15 through 17 for sex. The victim's consent is irrelevant under both these provisions; however, in the latter case, reasonable belief the victim was 15 or older is a permissible defense. No provision of law pertains specifically to child pornography, although the penal code prohibits obscene publications in general. Although child trafficking is prohibited, the law prescribes a harsher punishment for the trafficking of adults than of children.

**International Child Abductions:** The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

There was no known Jewish community, and there were no reports of anti-Semitic acts.

## **Trafficking in Persons**

There were no confirmed reports during the year that Tuvalu was a source, destination, or transit country for victims of human trafficking.

## **Persons with Disabilities**

The law does not specifically prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities. Government services to address the specific needs of persons with disabilities were very limited. There were no mandated building accessibility provisions for persons with disabilities. Persons with disabilities had limited access to information and communications, including participation in civic life, and were subject to discrimination in employment (section 7.d.).

A 2018 government report found that abuse and discrimination against persons with disabilities was prevalent, and women with disabilities were particularly vulnerable to abuse. There were no reports of investigations or punishment by the government for violence and abuses against persons with disabilities, but societal norms may limit the reporting of such incidents particularly against women and girls with disabilities.

In April the government, as part of its Disability-Inclusive Education Policy, opened its first and newly built inclusive Education Resource Center. The center, operating with the support of a foreign development partner, provided children with disabilities a safe learning space. Children with disabilities reportedly had lower school attendance rates at all levels than other children. Some students with disabilities attended public primary schools both in Funafuti and in the outer islands. Parents decided which school a child with disabilities attended after consultation with an adviser from the Fusi Alofa Association, a disabilities-focused NGO.

## **HIV and AIDS Social Stigma**

Persons with HIV or AIDS faced some societal and employment discrimination. The government and NGOs cooperated to inform the public regarding HIV and AIDS and to counter discrimination.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law prohibits consensual sexual conduct between men, with penalties of seven to 15 years' imprisonment, but there were no reports the government enforced these provisions of the law. The law does not specifically prohibit discrimination based on sexual orientation or gender identity. There are no hate crime laws, nor are there criminal justice mechanisms to aid in the prosecution of bias-motivated crimes against members of the LGBTQI+ community. There were no reports of violence against persons based on sexual orientation or gender identity, but social stigma or intimidation may inhibit reporting of such discrimination or violence.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of private-sector workers to form and join independent unions, bargain collectively, and conduct legal strikes. The law does not permit public-sector employees such as civil servants, teachers, and nurses to form and join unions. They may join professional associations that have the right to bargain collectively but not the right to strike. No law prohibits antiunion discrimination or requires reinstatement of workers fired for union activity.

In general, the government effectively enforced these laws. Employers who violated laws on freedom of association and the right to collective bargaining were liable to a fine, a penalty that was commensurate with those for other laws. The law also provides for voluntary conciliation, arbitration, and settlement procedures in cases of labor disputes. In general, these procedures were not subject to lengthy delays or appeals.

Although there are provisions for collective bargaining and the right to strike, the

few private-sector employers set their own wage scales. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes. There was only one registered trade union, the Tuvalu Overseas Seamen's Union. There were no reports of antiunion discrimination.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, and the government effectively enforced the law. Penalties were commensurate with those for other analogous serious crimes, such as kidnapping. Anyone who exacts, procures, or employs forced or compulsory labor is liable to up to 10 years' imprisonment. There were no reports of forced labor during the year.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children except in light work and of children younger than age 18 in hazardous work. The government did not specify the types of hazardous work prohibited for children; previous provisions only applied to a male person younger than age 18 in the industrial, mining, and fishing sectors. The worst forms of child labor are prohibited, including the sale or trafficking of children; engagement in activities connected to armed conflict; using children for commercial sexual exploitation, including child sex trafficking; and use, procuring, or offering of a child for the production of pornography or pornographic performances or trafficking of illegal drugs.

The government did not effectively enforce the law. The government did not have sufficient capacity to monitor or enforce child labor laws and depended instead on communities to report offenses. There were no reports of employment of children during the year.

Anyone convicted of violating the law on the employment of children was liable to up to 10 years' imprisonment. Penalties were commensurate with those for other analogous serious crimes, such as kidnapping. Children rarely engaged in formal employment but did work in subsistence fishing.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

#### **d. Discrimination with Respect to Employment and Occupation**

Labor laws and regulations do not prohibit discrimination based on race, color, sex, religion, political opinion, national origin, age, disability, language, sexual orientation, gender identity, HIV or other communicable disease status, or social status, and individuals sometimes experienced discriminatory practices. There were no reports during the year of discrimination in employment and wages. In the wage economy, men held most higher-paying positions. Nonetheless, women increasingly held senior positions in government, particularly in the health and education sectors. Few women could access credit to start businesses. Persons with disabilities faced discrimination in hiring and access to the workplace. Local agents of foreign companies that hired local seafarers to work abroad also barred persons with HIV or AIDS from employment.

#### **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The law provides for the government to set a minimum wage, but the Department of Labor did not do so. The Department of Labor is responsible for enforcing wage and hour regulations, but it did not have sufficient capacity or inspectors to formally and regularly conduct workplace inspections; inspectors did follow up when the Labor Department received complaints.

The law sets the workday at eight hours, and the Department of Labor may specify the days and hours of work for workers in various industries. Although the law provides for premium pay and overtime work, there are no established premium overtime rates or maximum hours of work. The government did not effectively enforce overtime laws. Violations are liable to a fine, a penalty that was commensurate with those for similar crimes, such as fraud.

**Occupational Safety and Health:** The law provides for rudimentary health and safety standards and requires employers to provide adequate potable water, basic sanitary facilities, and medical care. Workers can remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively protected employees in such situations. The government enforced standards inconsistently. Violations of occupational safety and health laws are liable to a fine, a penalty that was commensurate with those for crimes

like negligence.

Inspections for occupational safety and health were conducted by the same inspectors under the same authorities as inspections for wage and hours.

**Informal Sector:** Approximately 75 percent of the working-age population lacked permanent, formal employment and worked in the informal and subsistence economy. The main types of subsistence activity included fishing; agricultural activities such as fruit and vegetable gardening; coconut tree sap collection; copra production; livestock; handicrafts; house building; and traditional food preservation activities. There was no system for reporting and publishing workplace injuries or deaths, and a lack of resources hampered inspections of sectors outside the formal sector.